Supreme Court, U.S.
FILED

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No.

In The

Supreme Court of the United States

October Term, 1996

ANTHONY AND KATHLEEN GIORGIO

Petitioner,

vs.

STATE OF TENNESSEE, ETAL

Respondents.

Petition for a Writ of Certiorari to the United States Court of Appeals for the U.S. 6TH CIRCUIT COURT

PETITION FOR A WRIT OF CERTIORARI

ANTHONY AND KATHLEEN GIORGIO

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43 pp

QUESTIONS PRESENTED

1. Is it against the law of State and Nation to have two seperate cases, one of Civil action Carter v. Carter case 1956 (circa) 1990 along with an unfounded Criminal case Carter v. Giorgio case 1956 (Circa) 1993?

1A. Is it not so each case must be handled on its own and must be heard seperately on its own merits?

2. Is it law and/or proper proceedure that a citizen must be summons or subpoena to court , not notified by phone to appear without explanation?

3. Is it true a judge must be unbias and - or unpredjudice?

3A. Most important said judge must not sit on bench if he has had an affilation with either of the defendant or plaintiff?

4. Is it improper for a judge to holler at Giorgio's because they did not know why they were called (byphone) to appear?

5. Is it not common knowledge all persons of law including judges know the policy of Miranda law, especially the right to consul, which was denied to Giorgio's?

6. Is it not fact a Judge should and must run his own court and not ask opposing lawyer (city attorney) "what should I do now"?

7. Is it improper for a judge to order DHS to investigate an abuse case, they deny DHS findings because all charges were unfounded?

8. Is it illegal for a judge thru the oppositions attorney coerce and / or force DHS to reopen a closed file and change its findings without further investigation?

9. Is it illegal for a judge to tell the opponents attorney, because of closed case by DHS, "I'll give you all the time and all subpoena's you need to straighten the out ?

10. Can this same DHS in helping opponents attorney change its findings from **no abuse** to **no sever abuse**, to which there is no law **for or against**?

11. Can this "**no law**' for a U.S. citizen to be subjected to court hearing after court hearing for months, to suffer sickness and deprivation as a result?

12. Can it be legal that after finalization of said "no law" case, acitizen is neither found guilty or innocent?

13. Is it illegal and against the Civil Rights act that a judge refuse access to Pro-Se or persons involved in a case defendant or plaintiff?

14. Is it illegal or in the least improper for a recused judge to continue giving orders after his removal from case?

15. Is it against the law for County Clerks to deliberately lie verbally and in writting to consul, be it attorney or Pro Se?

16. Is it against the law for DHS to refuse access to a persons own case for purpose of appeal?

17. Is it illegal and against the rules of court for attorney to ex-parte meeting with judge?

18. Is it illegal and against the law that the courts refuse a U.S. citizen the right to appeal in the proper time frame?

19. Is it also illegal and against the rules of court for plaintiff or defendant to have a ex-parte meeting with a judge about an on going case?

20. Is it improper or illegal for the courts to refuse interrogatories and or request and demands for discoveries?

21. Is it improper for a judge or court to answer only motions of one side and none to the opponents?

22. Is it improper for a judge not to follow court proceedures and guidelines?

23. Is it improper for the courts after receiving a repremand to deny all motions at one time as punishment to the complaining party?

24. Is it improper and unlawful for the courts to show preference to one opponent because of race, color, creed, national origin, importance or statue?

25. Is it improper and/or unlawful a class action be dismissed after one year in the courts because of social statue, NOT ONE OF INTELLEGANCE?

26. Is it unlawful for persons to try to help their community because all attorneys are intimidated by the courts and refused to except case?

27. Is it improper for a court to dismiss an other courts tapes along with other evidence with out seeing, reading or hearing them or even with out a Writ of Certiorari?

28. Is it illegal or improper for a court to convene and have a trial without all persons especially plaintiff notified to appear?

29. Is it improper for a lower court to have a Writ of Centiorari from an employment hearing?

30. Is it improper or illegal for said lower court to convene (question 29), and make a decision while case is on going in the Federal courts?

31. Can it be judged a person is an ordinary citizen that can not represent a class when in actuality said person has won on many occasions both in the lower courts and the Federal courts of appeal?

32. Is it illegal for the courts to:

a. refuse to release an attorney from his client?

b. for said attorney ask and receive release by the 6th circuit court clerk?

c. allowed to request funds after quiting case?

33. Is it illegal for a court judge to say in open court **GUILTY BEFORE** their case is called to be heard?

34. Is it illegal for the courts to discount their own investigators dually sworn and say "you don't know what your talking about", because of his personal dislike for a citizen he doesn't even know, or to help there friends the opponents?

35. Is it illegal and or improper for a lower court to disreguard the laws set down by the Supreme Court of the United States and issue orders to the contrary?

list of parties

The names of all parties to the proceeding in the court whose judgment is sought to be reviewed here appear in the caption of the case. There is no parent or subsidiary company of any party to be listed.

State of Tennessee Department of Human service of Nashville and Jefferson County:

Max Moore, Judge, Individually in his capacity as Jefferson County Juvenile court Judge and General sessions court:

Terry Tucker, Special Judge, Individually and in his capacity as Jefferson County Juvenile Court Judge:

R.E. Farrar III, Individually and in his capacity as Juvenile Court Clerk of Jefferson County:

Connie Hicks, Individually and in her capacity as Youth Service officer of Jefferson County:

Douglas Berry Hill

Donald & Marsha Carter, Doing Business as Budget Heating and Air Conditioning.

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APPENDIX

Appendix A - Decision of 6th Circuit Court dated Aug. 7, 1996 Case # 95-6327.....	APP. A-1

PETITION FOR WRIT OF CERTIORARI

Petitioner Anthony F. and Kathleen Giorgio, respectfully petition for a writ of certiorari to review the judgment of the United States court of appeals 6th circuit.

OPINIONS BELOW

1. Civil Action - in general is all types of actions other then criminal actions to enforce and redress and protect private rights - **Gilliken v. gillliken, 248 N.C. 710, 104 S.E. 2d 861,863.**

1A. Criminal Action - is for the purpose of determining the guilt or innocense of a person charged with a crime which is a public crime and is prosecuted by State or Federal Government. **U.S. v Reisinger, 128 US 398 9S CT. 99 32 L ED 480.**

2. Rule 4, 4.02 (1), 4.02 - Itis the responibility of the Court Clerk to file the complaint and issue required summons with copies of the complaint and summons to be served promptly and to be served by anyone authorized to serve. 4.03 (1), A summons must be served promptly and the person serving summons shall make proof to the court it was served promptly, identify person served and describe the mannor of service 37-1-118 Subpoeas L (acts 1970, CH 600§ 18 T.C.A. § 37-1-121 summons (a) (b) (c) (e) (acts 1970 - CH 600§ 20 T.C.A. § 37-221 37-123 Service of the summons 37-1-123 (a) (c) (acts 1970 - CH 600 § 1983 CH 137 § 2 T.C.A. § 37-223

3. Cannon 2A Rule 10 - A judge should avoid impropriety and the appearance of impropriety in all his activities **woodruff v. Tomlin 593 f**

2D 33 (6th cir 1979) : in re Murphy, 725 S.W. 2D 509 (Tenn. 1987)

3A Cannon - 2B Rule 10 - **State v. brige 792 S. W. 2d 723 (Tenn Crim. 1990).**

4. Cannon 3A (1) (2) (3) - A judge should perform the duties of his office impartially and deligent.

5. Until one has had his Miranda rights read to him and unless he waives these rights and are demonistrated at trial no evidence may be taken. **Miranda v. Arizona, 384 U.S. 436, 444, 478, 479, 86 S. CT 1602, 1612, 1630, 16 L. ED 2D** and he has the right to the presence of Attorney - Right to consul **37-1-126 (a) State v. Layne 546 S.W. 2D 220 (Tenn Ct. App 1976) - State v. Birley 619 S. W. 2D 149 (Tenn Crim. App 1981) - State v. Manus, 632 S.E. 2d 137 (Tenn Ct. App. 1982) State v. Davis 637 S.W. 2d 471 (Tenn Crim. App. 1982).**

6. Cannon 3A (1) (2) (3) Rule 10 T.C.A. Pages 150 & 151.

7. Cannon 3A (2) (3) Rule 10 T.C.A. Pages 150 and 151.

8-12 The court called on DHS to inspect and compel disclouser of facts, this was the process of inquiring through inquirer. **Mason v. Peaslee, 173 C.A. 2D 587 343 P2D 805, 808.** The court instructed DHS to uncover that which was hidden, concealed or unknown, to get first sight or knowledge of what had existed not known by the court. **shellmar product co., v Allen -Qualley Co - CCA, ILL, 87 F2d 104, 108 - UCC §-201 (25)** when this agency appointed by the court, announced its findings and they were not to the liking of the court, judge with the help of Carters

and their attorney forced or coerced DHS to change there findings - **public law 96-272 (federal Legislature) - 42 U.S.C.A. 671 sec. 671 (a) Sec. 672 (a) appendix f. FL 593 Childabuse andneglect Legislation 37-1-102 (10) A,B,C,D,E,F,G,H,I, Appendix F2 - 5/93. Severe child abuse 371-102 (19) A,B,C, Taking into custody grounds 37-1-113 (a) ((b) Dependent or neglected child disposition 37-1-130 (A)(Al)(A2) (I ii iii iv v) (c) (d) 37-1-142 (3) (4) (4B) (4C) (1,2,3,) (d) appendix f. f4 f5 5/93 C.D.M. 10 classification policy class decision 3.3. 5/93**

13. § 134 **Right to access to courts** - being a party to the court case, and the charges are not one of sexual abuse of a child and the party seeking access is working Pro Se has the right to access the court which is protected by the **5th and 14th amendments § 1983.** Persons acting under the color of Law _ **prestion v. Cowan (1973) W.D. Ky. 369 F. Fupp 14, Affd. in part and vacated in part (Ca 6Ky.) 506 F2d 288: Moeak v Zijackowski (1974, W.D. Wis) 385 F. Supp 463 Revd. on other grounds (Ca 7 Wis) 541 F3d 177.**

14. Cannon 3B (2) Rule 10 & 37-1-159 (a) - DHS was working as an agent of this court.

15. Cannon 3B (2) Rule 10

16. Cannon 3C, (1a) (1c) - Rule 10 -This judge was disqualified on objections of the parties involved in this hearing because of self interest, bias and prejudice.

17. § 134 Right to appeal - When a trial judge out of spite or annoyance, refuse a state court defendant to file appeal and a court clerk working as the judges agent, a

a claim under § 1983 is actionable - Olson v. Hart (1992, Ca 10 Kan) 965 F 2d. 940

18. Cannon 3A (4) Pg. 151 T.C.A. Rule 10

19. Cannon 3A (4) Pg 151 T.C.A. Rule 10

20. **Discoveries** - this is for one party to obtain facts, tools of discovery is depositions written questions, interrogatories and productions of documents **Rules 26-37 - Harden bergh v Both, 247 Iowa 153, N.W. 2d 103, 106 Britton v State, 44 Wis. 2D 109, 107 N.W. 2D 785, 789.** Giorgio filed Motion 1st request for productions of documents - pursuant to rule 34 filed 12/28/94.

21-24 Rule 10 Cannon 3A 940 Page 151, T.C.A.

25-27 Rule 1769 Rule 23 - The petitioner in this action in there original complaint filed on Nov. 4, 1994 stated they will fairly insure representation of the class and upon a Motion filed on 12/20/94 asked the federal court to certify this class action. No motions from defendants opposing this request for class certification was filed until July of 1995 some seven months later. In this class action we are asking for the courts to follow the laws and treat all of the class members in a fair and justly manner

There **can not** by any adverse representation of any class member all would be bound by the judgment of a fair and honest court that adheres to federal, state and constitutional law.

Rule 23 § 1769.1-rule 23 (a) 4 - can not be satisfied by most attorneys in the state of

TN as they are not certified in any field of law. Therefore they can not demonstrate any experience or professional competence in any way. If the Pro-Se consul was afforded and not refused the opportunity of the Federal Court of Knoxville and the 6th Circuit and allowed Pro-Se consul to carefully investigate by depositions, interrogatories and discoveries of the facts, their representation would reflect deligent, careful and incisive attention to the interests of the class. Class representatives cannot appear Pro-Se if he has little experience or if the work already done suggests that he may not be effective as Pro-Se consul demonstrated adequately that they have filed all documents, answers Motions in the proper time frame and never ignored any court order as in the cases quoted here to.

The 6th circuit court erred in there opinion of **Oxendine v. Willians Ca 4th 1975, F 2d 1405.** There is no way that Giorgios in this action could jeopardized the rights of any parties to this Class action when the courts of **Jefferson county, judges, clerks, DHS attorneys and powerful and influencial persons have denied the members of the class,** there rights to access the courts, there rights to appeal, there rights to due process, a fast and speady trial, etc.

If this court does not feel the Giorgios cannot adequately serve the interest of the proposed class, we respectfully as the class allegations are stricken and the suit be viewed as an individual action-**Jeffery v. Malcolm, D. C. N.Y. 1973, 353 F Supp. 395, 397. (Per Pollack, J)**

27-32 **Writ of Certiorari - 28 U.S.C.A. 1254, 1257, Sup. Ct Rules 10 Et.Sq.** Here we have a case of police burtality. The police officer Mark McCarter, was discharged from the Jefferson City Police Dept. after a departmental hearing before the City Manager. At the timeo of this hearing the victim, Deana Jet, was not called to testify. The police officer's lawyer Ben Strand,(see guardian ad Litem) while the case was in the Federal Courts and under the ruse of a "Writ of Cert" went to the Jefferson County Courts, and without any testimony from the victim, who was **not** notified to appear, held a court hearing behind closed doors and reversed the **employment** hearing decision case #-12,879 **jefferson county circuit court Mc Carter v Mayor etal,** - the victim, Jett's first knowledge of this action was through a newspaper article. This same police officer i is now working for the White Pine Police Det., which is part of Jefferson County,

The court records show that this police officer was divorced on the grounds of assualt and abuse, discharged from his job as Jefferson City Police Officer for assualt and battery on a women and while this case was in the Courts he was again put on probation for six months for yet another assualt and battery on a women.

A "writ of Cert" is an order issued by a superior court to an inferior court requiring the latter to produce a certified record of the case being tried within. No where does it state from an employment hearing to a court hearing.

When the victim Jett, requested a complete copy of the court proceedings all that the Jefferson County Circuit Court would furnish her with was the "Memorandum Opinion" again not allowing access to another involved citizen.

This is yet another case where a person is denied access, there are hundreds more and if allowed the Giorgios will try to bring honesty and fair justice back to the Jefferson County Courts.

33-35 Rule 10 Cannon 3A (4) pages 150, 151, T.C.A.

STATEMENT OF JURISDICTION

The Federal Courts have Jurisdiction in this case under 28 U.S.C.A. § 1343 (3)

STATUTE INVOLVED

The pertinent provision of this case is 42 U.S.C.A. § Right to access of the courts article 4 of the constitution and the 14th ammendment and Rule 23 .01 prerequisites to a Class action, set forth below:

§134 -Right to access

§37-1-53 - Court files & records - Inspection Limited-Exception for certain violent offenders -
(a) Except in cases ariging under §37-1-146 , all files and records of the court in a proceeding under this part are open to inspection

only by:

(2) The parties to the proceeding and their consel and representatives;

23.01 Prerequisites to a class action- One or more members of a class may sue or be sued a representative parties on behalf of all only if;

(1) the class is so numberous that joinder of all member is impracticable

(2) there are questions of law or fact common to the class,

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and

(4) the representative parties will fairly and adequately protect the interest of the class.

STATEMENT OF THE CASE

Early in the year 1990 a child custody case #1956 Carter v. Carter, which was parents against there children for custody of there grandchildren, begain in Jefferson County Court, State of Tenn., case continued thru the middle of August 1994. In the interval of time Case # 1956 Carter v Carter came to include the Giorgios with an unfounded criminal action that was combined with said custody case, one of civil action. The Giorgios were now informed to appear, **NOT** by summons or subponea but by phone in 72 hours. In that time span the Dept. of Human services (DHS) a part of the law system of tennessee investigated as instructed by the court and found all charges to be frivolous,

false and unfounded to which DHS closed there case.

At court Judge Moore in open court stated the Giorgios were guilty before case was called. When case was called Judge Moore screamed at the Giorgios because they did not know why they were there.

The Giorgios refused to testify and asked for the constitutional and Mirands rights to consul, which Judge Moore refused. Carters lawyer Berryhill out of turn or being asked stated "we'er here lets do it anyway". If it were not for yet another attorney present who instructed Judge Moore of the Giorgios rights we would have been railroaded there and then. (case Postponed)

Giorgios enlisted an attorney who investigated and received conformation that DHS indeed closed there case against the Giorgios and notified the court as well as Carters attorney Berryhill.

At next trial date Giorgios attorney found **no complaint or petition** in court file against the Giorgios. At court Giorgios attorney asked for a copy of said complaint or petition, which could not be produced (for more then one year). Giorgios attorney asked the court for a dismissal on the grounds if there is no complaint or petition the charges must be dropped. Judge Moore denied the dismissal.

Now Judge Moore asked for his investigators from DHS and there report, again Giorgios lawyer asked for a dismissal as the court was notified as was Carters attorney that DHS had found **no laws** broken and closed its case. Judge Moore again refused and asked Carters attorney Berryhill, "what do you want me to do now?",,Berryhills reply was he would like to look into this. Judge Moore

The next trial date DHS had reopened the Giorgios case, without further investigation changed there documentation and findings to **no severe abuse** to appease the court and/or Carters and there attorney Berryhill. There is **no** statue of law **for or against**, no severe abuse, but the Giorgios were still subjected to hearing after hearing.

Judge Moore was recused but still issued orders and directions off the bench and installed a guardian ad letium some three and one-half years into this action.

Said Guardian ad letium practice law at one of Judge Moore's friends, attorney Ben Strand, who's office is less then 150 feet from his own. This guardian wrote an opinion to the court and in sworn testimony had advers statements of he opinion.

Now comes a Special Judge Tucker who at the trial stated he had never seen such a large case folder and did not read it because of it's size. At trial it was proven all Carters accusations were false both in the custody and criminal actions as testified by Cheokee Mental Health, along with DHS. These documents were given to the Giorgios to read by Judge Tucker. At recess, they were ripped out of Giorgios hands by DHS, head administrator Dennis Strange.

At the end of wo more hearings by Judge Tucker the case finally ended with the Giorgios found neither guilty or innocent.

Now with little funds Giorgios set out Pro-Se in search of truth, honesty and justice. In the proper time allowed Giorgios went to DHS and asked as Pro-Se consuls for access to there own files and were refused. Minutes later

appeared at court clerks office, Farrar, with check in hand for appeal, asked Farrar the clerk for access to our own file as Pro Se consuls and to make an appeal. Giorgios were told and in writing Judge Moore (recused) had instructed him to refuse access to Giorgios. A short distance for clerks office is the Youth Service officer, Hicks, again Giorgios acting Pro Se wished access which was refused verbally and in writing saying Judge Tucker told her not to allow access. Giorgios now had both check for appeal and written refusals

Giorgios now called Judge Tucker and asked why he refused access to them Judge denied this on tape. Giorgios now called recused Judge Moore and asked for access he told Giorgios get a lawyer and he can look at files. Along with this all DHS attorney Cook tried to **extort** monies from the Giorgios.

Now comes the Federal Court of Knoxville TN. Giorgios filed a court case against all concerned including the Carters and their business as they used there business to get favors from the court it must be considered as part of the Giorgios case. Without the use of their business favors to the court all actions listed would never had come to pass including, the Carters **Ex-parte** meetings with Judge Moore along with there attorney's **Ex-parte** meetings in the lower court.

After paying filing fees Giorgios were told the Federal Court would be stringent and that this court would follow Federal Guidelines and would not deviate from them. One defendant, an attorney, and head of the Bar Assoc. of Jefferson City defaulted. Giorgios motioned the court for default of this defendant and asked for a guilty

verdict of said defaulter. The court notified the Giorgios they now would not be following proceedures and allowed defendant more time to file. In motions to the court as well as to answering defendants motions Giorgio's asked on many occasions for discoveries and finally in desperation filed a demand for discoveries to date none have been given.

The Giorgios asked the court to investigate and examine lower court file that two other defendants had lied in sworn affidavite, this to fell on deaf ears and/or unseeing eyes.

After some time and motions answered only to defendants and no answers to Giorgios for discoveries. Giorgios motioned the 6th Circuit Court Executive office to have the Knoxville's court to answer Giorgios motions. After Judges office was notified all motions were denied as retribution and punishment for contacting the 6th Circuit court, alson with a dismissal of the Giorgios case without just cause.

Now comes the 6th Circuit court as stated all evidence, tapes, admissions and sworn lies were sent to the 6th Circuit court that proved beyond a reasonable doubt and proponderance of fact and law, Giorgios had proved that all local State and Federal laws broken.

On the other hand defendants showed no evidence, no discoveries, no proof wht-so-ever-were found correct and appeal dismissed.

This is plain to see by Giorgios and all other individuals unless a person is blind or deaf or both, laws were indeed broken and the Giorgios have proven so.

There should be no other verdict but guilty of all concerned along with this all individual defendants should be investigated, all monatory and punitive damages sought after be awarded to Giorgios or doubled if seen fit by this honorable court. Giorgios ask for this as the improprieties of the Jefferson County Courts continues to this day, along with the injustices to the people of this community.

The last atrocity by the Jefferson County courts was Aug. 19, 1996. The Giorgios who had rented their mobile home to persons who refused to pay rent or move, said Giorgio's filed suit to have them removed along with a motion for another judge to hear, as Judge Moore, was still in Federal Court proceedings with the Giorgios. At court not only did Judge Moore hear the case it was held in the corner of the entrance vestibule or lobby of the courthouse with other persons milling about and/or entering the court room for their own respective court hearing.

And yet another atrocity this day October 8, 1996, according to the law set in 1992 all Federal State and County buildings must be handicaped accessible to the incapacitated, specially the restrooms. One witness of court Mr. Joesph Hedge a person who lost a leg and is confined to a wheelchair, said witness needed to use the restroom and to his dismay found his wheelchair, would not fit through the inter door. There are signs on both stairs leading to the second floor "if anyone needs help it will be provided". Mr. Hedge asked for help at the clerks office and a guard of court

told him to go to the Health Department next door building. Mr Hedge left the courthouse pu pushed uphill to the next building picked up debris which flattened a tire. The Giorgios feel this not only against the law, but to put this disabled person thru this is despicable!!

Another atrocity committed by the State of TN thru their Dept. of Human Service was when there attorney Mr Cook from the Jefferson County office, when in 1992-93 tried to extort monies from the Giorgios in the name of the state. The Giorgios feel and it is the law of the United States not even a state can extort money from its citizen.

reasons for granting the writ

By law and Giorgios belief a Writ of Certiorari is not legal from an employment hearing to the lower court of Jefferson County. The lower court can not have a hearing on a case while same case was in Federal Court, and a trial was held with said Writ without the victim being notified of court date or the right to be present, A Writ of Certiorari in this action must be allowed from the Supreme Court to the lower courts of Jefferson County. This lower court must finally answer this honorable court with said Writ and produce all documents and tapes of case Carter v.Carter #1956 Circa 1990 and Carter v. Giorgio Case # 1956 Circa 1993, so the truth will be self evident to the eyes of this court.

The refusal of DHS, the lower courts, attorney clerks and powerful and influential persons of releasing both access and discoveries to Giorgio is totally illegal and unjustified especially if consul is part of said case and must have their legal right to evidence to prepare there case. No court be it lower, County, State, Federal or otherwise be protective of a court, in the lower sect of law, to protect its illegalities along with changing guidelines to protect the improprieties of all concerned such as lying in sworn affidavit, finding a citizen guilty before trial hearing is called, changing filing guide lines, hollowing at persons before court convenes, lie to Pro se consul both in writing and verbally, refuse access, refuse discoveries, show not one shred of evidence, being found for by the Federal Court, Knoxville and to dismiss a case because a complaint was filed with executive branch as motions were not being answered. All these facts will be proven only if this honorable court rules and receives the records of Jefferson County Court, TN the Federal Court Knoxville, TN and the 6th Circuit Court, OH.

The Jefferson County Court, The Federal Court and the 6th Circuit courts errors are so erroneous that if there decisions are allowed to stand this would jeopardize the rights of individuals who are indigent or not there constitutional right to be heard with or without an attorney or receive an honest judgment of court.

The Jefferson County Courts erred when it refused its own investigation, it erred when it pronounced guilt before case was called, it erred when it had Ex-Parte meetings, it erred when it refused to dismiss on both grounds of no petition or complaint in file and refused

to except the courts own investigations on its closurer, when they continued a case with NO LAW being broken, it erred when the court refused access, it erred when judge who was recused, continued giving orders in said case, it erred when clerks were told to lie verbally and in writing and the Federal court, Knoxville erred finding for said county, Judges clerks attorneys and powerful and influential persons, with no evidence brought forth by said defendants and the 6th Circuit court erred by not allowing Giorgios to protect the class, only this honorable court has the power to get access of these records of a 4 year plus case in the Jefferson County courts, we pray for your intervention in this case.

Most important is the class being protected. The court states Pro Se consul cannot argue for the class when in reality Giorgios cannot hurt the class in anyway possible. If the Giorgios are found correct in its filings to the lower Federal court, and the 6th circuit and the Supreme Court all of the class and classes would benefit. If by the slightest chance Giorgios were to lose this class action the class would not be hindered and the illegal tactics of the Jefferson Courts would continue until another participant with monetary clout would again file for equal jurisprudence in the courts of TN.

CONCLUSION

Now comes the Giorgios - what is presented to the Supreme Court of the United States is, the illegal tactics of the State of TN in the offices of the DHS, the county courts, clerks of Jefferson along with Powerful and influential people such as attorneys who at the time were head of the Bar Assn. City Attorney of Jefferson City, influential

business owners, who use the court as a play object to disreguard law to there benefit for prior favors done for the courts along with others.

There are questions of law which must be address, each to be judged on its own merit. Any of said questions that are truly against the law of state, or country or in the least improper to court rules and or color of law all defendants must be found guilty, as it clearly shows coercion bias, prefjudical treatment and beneath the station of hones law. These perpetrators singly and or in unison besmirched the laws of this state and the laws of this great nation.

We the Giorgios ask this honorable court to find on our behalf in this action, and ask for the maximun, of our original suite. Eight Million dollars, or the minimun agree with the Giorgios indeed the laws were broken by the defendants and the Giorgios are guaranteed their day in court for the illegalities done to the Giorgios personally from 1990 thru 1994 in the lower courts and to date for the atrocity committed of there dishonest law by the defendants and their lawyers.

The Giorgios also ask this court to severly repremand the lower courts of Jefferson County for the bias and prejudicial handling of Case # 1956 Circa 1990 and Case # 1956 Circa 1993 along with a multitude of others as already proclaimed such as found guilty before trial, refusal of Miranda rights, case continued without petition or complaint in file, desreguarding the courts own investigations, ex-parte meetings, giving orders after being recused and holding the Giorgios in court hearing after hearing without a law being broken. Lastly to find and order from the court completely opposite of the law set down by the United States Supreme Court or

or to appear without summons or subpoena but only a phone call.

The Giorgios also ask a sever reprimand to the Knoxville courts for its refusal to help Pro Se consul in receiving what is the law. to allow discoveries asked for and demanded with no help or answer from the courts, refusing to answer motions and to judge Jarvis for answering all of the motions finally after the Giorgios complained to the executive offices, all Motions were answer at one time and all denied as punishment to the Giorgios seeking law and honesty in the TN Courts.

The Giorgios seeks this court to repremand the 6th circuit court, as it received all the proof and verbal tapes of laws broken by all defendants, along with the proverbial smokeing gun and found for the opposition, its commrades in the lower courts and the knoxville courts who showed or proved absolutely nothing.

Finally the Giorgios ask this honorable court to severely reprimand the State of TN, for its coverup of the DHS for opening a closed case change its findings and paper work and lastly trying to **EXTORT** monies from the Giorgios thru its state attorney Mr. Cook.

This is to be a typical case of "you scratch my back, I'll scratch yours," just the "politics as usual" occurrences that are prevalent throughout the rural areas of the American South.

It's the good old boys system of American justice in practice, only the events in this case are so blatant that they are truly very offensive to anyone who believes in justice

and the precepts upon which this country was founded.

The petition for a Writ of Certiorari should be granted.

Respectfully submitted,

Anthony F. Giorgio

Anthony F. Giorgio

Kathleen Giorgio

Kathleen Giorgio

Date: 1-16-97

APPENDIX A _ ORDER OF THE UNITED STATES COURT OF APPEAL FOR THE SIXTH CIRCUIT # 95-6327 - DATED AUG. 07, 1996

ANTHONY F. GIORGIO: KATHLEEN GIORGIO, INDIVIDUALLY AND ON BEHALF OF ALL OTHER PERSONS DENIED ACCESS TO THE COURT,

Plaintiffs-Appellants,

v.

STATE OF TENNESSEE, DEPARTMENT OF HUMAN SERVICES OF NASHVILLE AND JEFFERSON COUNTY: MAX MOORE, Judge Individually and in his capacity as Jefferson County Juvenile Court Judge and General Sessions Court Judge; TERRY TUCKER, Special Judge, Individually and in his capacity as Jefferson County Juvenile Court Judge; R.E. FARRAR, III, Individually and in his capacity as Juvenile Court Clerk of Jefferson County; CONNIE HICKS, Individually and in her capacity as Youth Service Officer of Jefferson County; DOUGLAS BERRYHILL: DONALD CARTER, doing business as Budget Heating and air conditioning; MARSHA CARTER, doing business as Budget Heating and Air Conditioning,

Defendants-Appellees.

Before; GUY, RYAN, and SUHRHEINRICH,
Circuit Judges.

APPENDIX-A-2

Anthony F. and Kathleen Giorgio (Giorgios), pro se Tennessee litigants, appeal district Court orders dismissing their civil rights action filed pursuant to 42 U.S.C. § 1983. This case has been referred to a panel of the court pursuant to rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

In their complaint, the Giorgios claimed that their Fifth, Eight, and Fourteenth Ammendments rights were violated because they were denied access to court documents and tapes of their own trial (apparently for child abuse), denied assistance of counsel; and prevented from appealing the decisions of the Jefferson County Juvenile and General Sessions Courts without assistance of counsel. They also claimed that certain orders and decisions were changed without notice to them or their attorney. They sought to represent a class of similarly situated persons, indigent or not, who have in the past or will in the future attempt to gain access to Jefferson County Juvenile and Sessions Court' records for the Purpose of bring pro se appeals. The Giorgios sought declaratory, injunctive and monetary relief.

In a memorandum and order filed January 5, 1995, The district court granted the Carters' motion for summary judgment. The court also granted the Tennessee Department of Human Services' Motion to Dismiss. The Giorgios appealed this decision. The Sixth Circuirt Dismissed the appeal for lack of Jurisdiction. See Giorgio v. Tennesse Dept of Human servs., No. 95-5152 (6th Cir. Mar. 8, 1995) (unpublished order). In a memorandum and order filed June 7, 1995, the district court granted defendant

Berryhill's motion to dismiss. In a memorandum opinion and order filed September 20, 1995, the district court granted summary judgment in favor of the remaining defendants. This timely appeal followed.

Initially we noted that the district court properly denied class certification. Because a layman does not ordinarily possess the legal training and expertise necessary to protect the interests of a proposed class, courts are reluctant to certify a class represented by a pro se litigant. See 7A Wright, Miller & Kane, Federal Practice and Procedure § 1769.1 n.12 (2d ed. 1986). See also Oxendine V. Willians, 509 F2d 1405, 1407 (4th Cir. 1975) (per Curiam) (Pro se Prisoners are not adequate representatives fairly able to represent the class). Accordingly, the district court did not err when it denied the Giorgios'. request for class certification.

Upon review, we conclude that the dismissal of the claims against the Tennessee Department of Human Services (DHS) was proper because the Giorgios undoubtedly can prove no set of facts in support of their claims against the DHS that would entitle tem to relief. See Wright v. Metrohealth Medical Ctr., 58 F.3d 1130, 1133 (6th Cir. 1995), cert. denied, 116 S. Ct. 1041 (1996. The claims against the DHS are barred by the eleventh Amendment. See Welch v. Texas Dep't of Highways and Pub. Transp. 483 U.S. 468, 472-73 (1987); Thiokol Corp. V. Department of Treasury, State of Mich., Revenue Div., 987 F. 2d 376,381 (6th Cir.) 1993. The DHS is an arm of the State of Tennessee, see Tenn. Code Ann § 4-3-1201, and that state has not expressly waived its sovereign immunity. Furthermore,

Congress did not disturb the state's Eleventh A Amendment immunity when it passed § 1983. See Wolfel v Morris, 972 F2d 712, 718-19 (6th Cir. 1992).

Upon further review, we conclude that summary judgment was proper as there were no genuine issues as to any material fact and the defendants were entitled to judgment as a matter of law. See City Mgmt. Corp. v. U.S. Chem. Co., 43 F3d 244,250 (6th Cir. 1994). The Giorgios failed to state a prima facie case for a cause of action under § 1983 as to the Carters and defendant Berryhill. See Flagg Bros. V. Brooks, 436 U.S. 149, 155-57 (1978). The Carters were not state actors, as bringing a suit in the state court does not transform private action into state action. Moreover, defendant Berryhill did not act as a state actor when he represented the Carters before the state courts. See polk County v. Dodson, 454 U.S. 312,325 (1981). In any event, because the Giorgio's allegations of conspiracy are vague and conclusory, they are insufficient to state a claim. See Gutierrez v. Lynch, 826 F. 2d 1534, 1538-39 (6th Cir. 1987).

Summary judgment in favor of the remaining defendants was proper as these defendants enjoy absolute judicial immunity. See Briscoe v. LaHue, 460 U.S. 325, 335 (1983); Stump v. Sparkman, 435 U.S. 349, 356-57 (1978)

Accordingly, the District courts orders are affirmed. Rule 9(b)(3), Rules of the sixth Circuit

Entered By Order of the Court

_____

Clerk

1. The 6th circuit court erred in there statement of "apparent child abuse". The allegations were made by Berryhill in the representation of the Carters The allegations of child abuse were completely over thrown by DHS and also the Jefferson County prosecutor who refused to prosecute the Giorgios as there was no evidence of child abuse. Judge Moore held the Giorgios hostage for 4 long years under the ruse of non-severe abuse to serve his friends, powerful and influencial persons of Jefferson county. If the Giorgios were allowed access and/or discoveries to the Jefferson County Courts records there would not be allegations, this would be proven facts. The 6th Circuit Court erred when they allowed the Knoxville court to state the records of the Jefferson County courts were not important in this case. Although and especially when there was no summons, complaint or petition issued or filed, and proof of this was sent to the Sixth Circuit court in Giorgios appeal.

2. The court erred when they state a layman does not ordinarily possess the legal expertise to protect the class. The Giorgios have filed 4 different appeals with the 6th circuit court and won each time (#87-00253 1987, #88-6158 1988 #89-6499 and # 94-6310 1995) and twice in the appeals courts of Jefferson county (Giorgios v. beckner, 1994 and Giorgio v Vreeland #14300-II 1996) clearly proving the Giorgios are not common layman and the Giorgios would like to mention they had the position to correct a court order, to rectify the proper number of said case, the proper amounts of costs equally and other corrections of a promandent attorney in Jefferson County tn. This also must be concluded as Giorgios are not ordinary laymen. (attorney James Hutchins.) Giorgio V. Vreeland.

3. The Giorgios, in this action in there

original complaint filed on Nov. 4, 1994, stated they will fairly insure representation of the class and upon a Motion filed on 12/20/94 asked the Knoxville Federal Court to certify this class action. No motions of any defendant opposing this request for class certification was filed until July of 1995 some seven months later. In this class action we, the Giorgios are asking for the courts to follow the laws and treat all of the class members in a fair and justly manner.

There can not be any adverse representation of any class member all would be bound by the judgment of a fair and honest court that adheres to Federal, State, County and Constitutional Law.

The 6th circuit court erred in there opinion of Oxendine v. Williams Ca. 4th 1975, F 2d 1405. There is no way that the Giorgios in this action could jeopardize the rights of any parties to this class action when the courts of Jefferson County, Judges, Clerks DHS, Attorneys and powerful and influencial persons have denied the members of the class, there rights to access the courts, there rights to appeal, there rights to due process, a fast and speedy trial, etc.

3. The court records of Jefferson County by witness testimony of DHS , there documents on there investigation of the Giorgios would prove all claims and allegations made by the Giorgios, would prove to any reasonable person that DHS lied, changed records and there attorney Cook tried to extort money from the Giorgios. The Giorgios do not believe the State of TN or DHS can be immune under these circumstances. The Giorgios do not believe the Congress of the United States gave them immunity from this and if allowed access to Jefferson County Juvenile court records

all this will be proven along with the lies told by Donald & Marsh Carter, in sworn affidavit the only evidence produced by defendants, which the Knoxville and 6th circuit court relied on.

4, Giorgios went to Johnson City Federal Court asked for and received a copy of court case they neither knew anyone nor had any participation in without any problem what so ever.

Giorgios went to Greeneville TN Federal court and asked for a docket sheet of a case 11 years old and without problem or question received all that was asked for.

Now again Giorgios went to the proper people of Jefferson County court in the proper time frame and asked for access to Giorgios own case and were refused access and application for appeal. This refusal was ordered by Judge Moore who was recused months before and this refusal was written and was also included in the Giorgios appeal to the 6th circuit court.

5. It is apparent to Giorgios something is not well in the law of Tenneessee, the Giorgios first face (prima facie) case was one copied by Giorgios which was procurred in Johnson City, TN. Said case was won by the complaintants, but the Knoxville courts and the 6th circuit denied us the same verdict because we the Giorgios are working Pro Se. See Geneva Cross, Donna Scalf, Cheryl Clendenon, & Alma Fender, Individually and on behalf of all other persons denied access to court, Plaintiffs v. Washington County TN, Don squibb, in his capacity as General Sessions Court Clerk washington County TN, Judge John L. Kiener in his Capacity as Washington Courty General Sessions Court Judge and Judge Stewart Cannon, in his capacity as Washington County General Sessions Court Judge, Defendants Case # 28325 filed Sept. 23, 1992..

If a person is in court for 4 long years and is found neither guilty or innocent and tries to gain access to these records, and tries to appeal case but is refused by the court clerks in writing which was in the hands of the 6th circuit and knoxville courts and they too refuse you access, any attorney would fail in presenting a prima facie case also.

When an attorney and/or his clients have ex-parte meetings with a judge, who issues orders without allowing the opposition time to respond or even send the Motion on which the order was written to the opposition something is wrong.

It is Giorgios understanding of the law all Motions must be filed with the courts whether State, County or Federal and the opposition has a set time in which to answer and only then a order can be issued from the court. The Giorgios allegations of conspiracy are only vague and insufficient because they were not allowed access to there own case, which Knoxville courts feel is unimportant and the 6th circuit court apparently agrees with. This is a breach of our consititutional rights and amendments as American Citizens and if allowed access to the Jefferson County courts it would be proven fact and a prima facie case would be established.

6. If the lower courts followed the rules and proceedures of court, State,County and Country there would only be a class action to the court. As the Carters, Donald & Marsha used there favors to the court too receive special treatment from the courts in repayment for said favors to the court and its judges. The class action must be imposed upon them as well as there attorney with his powerful induction and pressure along with

his ex-parte meetings must be stopped not only for the good of the Giorgios but for the class as this incident is only the tip of the iceberg of illegalitiles of court and its friends demeaning the class citizens of this county.

7. The allegations of conspiracy cannot be deemed vague or insufficient as the 6th circuit court was supplied with tapes of said judges refusing access, Special judges answer on tape denying what clerks of court, in writing, told Giorgios as to denying access, the admissions of ex-parte meetings, the proof and orders were instituted without notification to Giorgios or attorney in proper time frame, summons to appear in court never delivered, which the Giorgios tracked down after court date, held in court as hostage for 4 years on trumped up charges made up by the friends of the court and continued even after said charges were proved false by DHS along with other legal falsities admitting all charges were implanted by the friends of the court, Marsha and Donald Carter. The chargesbecame afterwards as non-severe abuse to which there is no law for or against, non-severe abuse means that you made the child stand in a corner, or sent them to there room, ect. The Giorgios are sure that each and every one who has children or grandchildren has done this on one or more occasions, but they weren't charged with it being a crime and held in court for 4 years.

If this court will request all court records from the 6th circuit, Knoxville and Jefferson County Juvnile case #1956 there will no longer be allegations but proven facts.

8. Again Giorgios must repeat there is nc absoluate immunity fro Civil rights nor are there any for extortion of a City, State, County official in there capacity as instrument of same. Absolute immunity is basically for errors by the court and/or its agents not blantant disregard of the law. Absolute immunity has no bearing on this case as the Giorgios have already proven with omissions of defendants, the so called allegations are

9. Doctrine of civil conspiracy may be used in section 1983 Civil Rights cases to extend liability for deprivation of constitutional rights to persons other than actual wrongdoers, 42 U.S.C.A. § 1983 Id. When a judge has ex-parte meetings with one side and there attorney and issues orders without the other party notified or allowed the right to respond, had DHS change there findings without further investigation, allow DHS attorney to try to extort money liability in this instance must be extended to the Carters, Berryhill and DHS, the clerks of the court for making illegal decisions of not allowing access under the ruse they were instructed by Judge Moore who had been recused some months earlier liability should also be extended to include Hick, Farrar, and Tucker, 42 U.S.C.A. § 1983 Id Vance v Billingsly, 487 Supp. 439, - 42 U.S.C.A. § 1983 Vaughn v. Trotter, 516 Supp. 886.

Congress did not intend municipalities to be held liable under section 1983 unless action prusuant of official municipal policy of some nature caused constitutional tort 42 U.S.C.A. § 1983 Brady v. Washington County TN 509 F. Supp. 538. The DHS complicity in this case has caused the Giorgios great deprivation and must be made responsible for there decision to change there reports as to appease the courts of Jefferson County and the extortion attempt of DHS attorney Cook. Giorgios were both party to case # 1956 1/3 payment was assigned upon them and they were also working pro se - 42 U.S.C.A. § 1983 Stevens v. Hunt 646 F. 2d 1168. Giorgios have by way of written and oral statements of all name persons established deprivation of constitutional rights, burden of proof now shifts to opposition to demonstrate deprivation was not caused by defendants, Kendal v. Board of Ed. of Memphis City Schools 627 F. 2 D.

Government officials are not immune from liability when officials or its agent DHS consorted with Judge Moore, Carters & Berryhill powerful and influential persons to make decisions which they knew or should have reasonably known there is no statue for and there actions caused a constitutional or statutory deprivation under § 1983 Olson v. Hart (1982 Ca 10 Kan) 965 F. 2s 940.

State Defendants retain burden of pleading qualified immunity defense and providing either that the law was not clearly established at time of plaintiffs alleged injury or they neither knew nor should have known of the relevant legal standard due to extraordinary circumstance - 42 U.S.C.A. § 1983 Id - Alexander v. Alexander 706 F 2D 751. DHS, Berryhill, Moore, Tucker, Farrar and Hicks are people of the law and should have known there is NO statute for NON-SEVERE ABUSE and should not have restrained Giorgios from seeing there grandchildren for one year or more Defendants also should have know Giorgios also had right to access and to appeal decision.

Federal officials seeking absolute immunity from liability for violations of showing that public court, clerks attorneys - Windsor v. the Tennesseen -719 F. 2d 155, burden of proving there good faith - 42 U.S.C.A. § 1983 Wilkerson v. Johnson 699 F. 2d 325.

§ 134 Right to access to the courts is one of privileges and immunities accorded citizens in action § 1983 and under article four of the constitution and 14th amendment - Ryland V. Shapiro (1983 CA 5 LA) 708 F 2d 904.

Court files and records inspection limited except for certain violent offenders 37-1-153, except for cases arising under this part they are open to

inspection only by parties to the proceeding and their counsel and representative, Giorgios were a party to case # 1956 and are acting as there own attorney if this is permissible in Federal Courts then why not in the Jefferson County and Knoxville courts? Proof of this was included in Giorgios appeal to the 6th Circuit Court which they also choose to ignore.

If the Giorgios are so wrong and defendants are so right it beseeches the Giorgios why the laws of the land does not include Jefferson County courts, Knoxville Courts who state access to records of the Jefferson County courts are not important, and the 6th Circuit Court is so adamant in not allowing the Giorgios access, is it because they are covering up something? Only this court can find out for sure by granting the Giorgios "A Writ of Certiorari."